

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN RE: CASE NO. 04-41618

JON M. PROVO

TARA A. PROVO

Debtors

MICHAEL E. TRIPLETT

Plaintiff

vs.

JON M. PROVO

TARA A. PROVO

Defendants

PROC. NO. 06-4007

DECISION ON MOTION TO DISMISS

At Fort Wayne, Indiana, on June 15, 2006

By this adversary proceeding, the plaintiff who is proceeding pro se has objected to the debtors' discharge. The defendants responded by filing a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for the failure to state a claim upon which relief could be granted. The plaintiff did not respond to the motion within the time required by the local rules of this court, see, N.D. Ind. L.B.R. B-7007-1(a), and the motion was taken under advisement when that time expired.

A motion to dismiss for failure to state a claim cannot be granted unless it is clear, from the face of the complaint, that there is no set of facts which plaintiff could prove in support of its claim which would entitle it to relief. Caldwell v. City of Elwood, 959 F.2d 670, 671-72 (7th Cir. 1992) (citing Mosley v. Klinciar, 947 F.2d 1338, 1339 (7th Cir. 1991)). In reviewing the complaint, factual

allegations and any inferences reasonably drawn therefrom are viewed in a light most favorable to the plaintiff. Id. When measured by this standard, even taking into account the plaintiff's status as a pro se litigant, the complaint fails to state a claim for relief. None of the allegations it contains seem to bear any relationship to the statutory reasons set out in the Bankruptcy Code for which a discharge may be denied. See, 11 U.S.C. § 727. Instead, it seem to be little more than a complaint about the fact that bankruptcy allows debtors to discharge their debts. That is a complaint which should be directed to Congress.

The defendants' motion is dismiss will be GRANTED and this adversary proceeding dismissed.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court